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REUTERS

Homegrown satellite radio software draws XM fire

By Kenneth Li, Reuters

NEW YORK — Catching Blondie's reunion tour broadcast at 4 in the morning wasn't an option for XM satellite radio subscriber and single father Scott MacLean.

"I was missing concerts that were being broadcasted when I was asleep or out," he said.

So the 35-year-old computer programmer from Ottawa, Ontario, wrote a piece of software that let him record the show directly onto his PC hard drive while he snoozed.

The software, TimeTrax, also neatly arranged the individual songs from the concert, complete with artist name and song title information, into MP3 files.

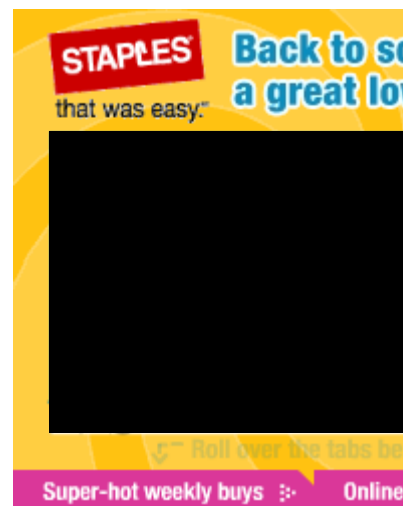
Then MacLean started selling the software, putting him in the thick of a potential legal battle pitting technically savvy fans against a company protecting its alliance — and licensing agreements — with the music industry.

MacLean says he is simply seeking to make XM Radio — the largest U.S. satellite radio service with over 2.1 million members paying \$10 a month for about 120 channels — a little more user-friendly.

"The larger issue here is they came out with one lock and another creative person goes out to create a key," said Michael McGuire, an analyst at technology research firm Gartner. "It's very hard for policy and copyright law to keep up with the pace of technological change."

A spokesman for the Recording Industry Association of America said his organization had not reviewed the software, but said that in principle it was disturbed by the idea. "We remain concerned about any devices or

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software that permit listeners to transform a broadcast into a music library," RIAA spokesman Jonathan Lamy said.

The RIAA and XM are both busy figuring out if any copyright laws and user agreements have been broken.

MacLean's software essentially marries the song information with an analog recording of the broadcasts, then stores this in MP3 files. The user can leave the software running unattended for hours and amass a vast library of songs.

That feature has been a central concern in the music industry as it lobbies regulators to place restrictions on free copying of digital broadcasts before many more radio stations add digital broadcasts. About 300 stations already offer digital broadcasts.

Music labels fear that the convenience of MacLean's software will lead millions more to copy and distribute songs over file-sharing networks such as KaZaA, a music industry source said.

Media companies were dealt a blow last week when a U.S. federal appeals court ruled that online file sharing software companies in the spirit of the original Napster were not liable for acts of copyright infringement its users committed.

More than 2,400 XM listeners have downloaded the program since he made it publicly available on Aug. 12, MacLean said, and nearly 400 paid for the full version at a cost of \$19.95. He raised the price on Tuesday to \$29.95. The software can be found at nerosoft.com/TimeTrax.

These users are using TimeTrax — in combination with the software that came with XM's receiver, the PCR — as their main gateway to XM Radio on the PC.

XM Satellite Radio Holdings said it was concerned about the software, based on a description of its features.

"That's a product that's not authorized by XM," Chance Patterson, vice president of corporate affairs, told Reuters last week.

"That program is something we don't condone ... It's our expectation they will be shut down," he added. "We're also researching any potential legal violations."

Patterson said the device the software relies on, the PCR receiver, represents a small fraction of its sales. The lion's share of its sales come from receivers built into new cars and stand-alone units that connect to home stereos, which cannot be hooked up to computers.

The software could conflict with XM's plans to improve its service. XM has said it plans to launch in October a new car and home radio receiver that lets users pause and rewind live broadcasts. XM also has a deal to stream its broadcasts over next-generation TiVo recorders.

In a letter seen by Reuters, XM's lawyers told MacLean to discontinue his sales and provide the company with a list of purchasers.

He said he had no intention of complying and added that he had no such list.

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